

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the Kinder Morgan Energy Partners L.P through its Operating Partner SFPP, L.P. (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0543 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) within ninety (90) days of service of the Complaint; and
4. ☐ **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
 - a. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **nine thousand dollars (\$9,000)** by check, which contains a reference to "ACL Complaint No. R5-2009-0543" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*" Payment must be received by the Regional Water Board **by 26 June 2009** or this matter will be placed on the Regional Water Board's agenda for adoption at the **13/14 August 2009** Central Valley Water Board meeting.
 - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Regional Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

5. ☐ **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name)

(Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0543

KMEP Fox Road Petroleum Release Site
Groundwater Remediation System

RECORD OF VIOLATIONS (1 January 2008 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2008-0008)

| | <u>Date</u> | <u>Violation Type</u> | <u>Units</u> | <u>Limit</u> | <u>Measured</u> | <u>Period</u> <u>Type</u> | <u>Remarks</u> |
|---|-------------|-----------------------|--------------|--------------|-----------------|------------------------------|----------------|
| 1 | 7/28/08 | Manganese | µg/l | 995 | 1,800 | daily | 1 |
| 2 | 8/20/08 | Manganese | µg/l | 995 | 5,900 | daily | 1 |
| 3 | 9/3/08 | Manganese | µg/l | 995 | 2,600 | daily | 1 |

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

| <u>VIOLATIONS AS OF:</u> | <u>12/31/08</u> |
|--|-----------------|
| Group I Serious Violations: | 3 |
| Group II Serious Violations: | 0 |
| Non-Serious Exempt from MPs: | 0 |
| Non-serious Violations Subject to MPs: | 0 |
| <u>Total Violations Subject to MPs:</u> | <u>3</u> |

Mandatory Minimum Penalty = (3 Serious Violations + 0 Non-Serious Violations) x \$3,000 = \$9,000